

Dear Chief State School Officer:

As you know, on September 23 the Secretary offered each State educational agency (SEA) the opportunity to request flexibility regarding certain provisions of the Elementary and Secondary Education Act of 1965 (ESEA), as amended, in order to improve student academic achievement and increase the quality of instruction. This flexibility is intended to help support the significant State and local reform efforts already under way in critical areas such as transitioning to college- and career-ready standards and assessments; developing systems of differentiated recognition, accountability, and support; and evaluating and supporting teacher and principal effectiveness. We previously announced two dates by which an SEA could submit a request: November 14, 2011, and February 28, 2012. We also are pleased to announce a third submission date of September 6, 2012.

We recognize that some SEAs may need more time to develop a comprehensive, high-quality request. For this reason, pursuant to the Secretary's waiver authority in ESEA section 9401, we are offering SEAs the opportunity to request approval to use the same annual measurable objectives (AMOs) for determining adequate yearly progress (AYP) based on assessments administered in the 2011–2012 school year as they used for the previous year.¹ In return for this temporary flexibility, an SEA must adopt college- and career-ready standards; link teacher, principal, and student achievement data and provide that information to educators to improve their practice; and identify persistent achievement and graduation rate gaps within the State that need to be closed. Note also that, consistent with the statutory requirements for an ESEA waiver request, an SEA must provide all local educational agencies (LEAs) with notice and a reasonable opportunity to comment on the SEA's request and must submit any comments received to the Secretary along with its waiver request. The Secretary will consider these comments when determining whether to grant an SEA's waiver request. An SEA also must provide notice and information regarding the waiver request to the public in the manner in which it customarily provides such notice and information to the public.

The enclosed guidance document provides more detailed information about this One-Year AMO Waiver, as well as a sample template for submitting a request.

If you have any questions about this waiver request or other issues related to ESEA flexibility, please direct them to eseaflexibility@ed.gov.

Thank you for your ongoing work to increase the quality of instruction and improve the academic achievement of students.

Sincerely,

/s/

Michael Yudin

¹ Under the Paperwork Reduction Act of 1995, SEA submissions of flexibility requests, including this temporary flexibility request, are approved under Office of Management and Budget control number 1810-0708.

Acting Assistant Secretary for
Elementary and Secondary Education

Enclosure

One-Year AMO Waiver

If a State educational agency (SEA) needs additional time to plan for implementation of ESEA flexibility, it may request approval to use the same annual measurable objectives (AMOs) for determining adequate yearly progress (AYP) based on assessments administered in the 2011–2012 school year that it used for the previous year. In return for this temporary flexibility, an SEA must adopt college- and career-ready standards; link teacher, principal, and student achievement data and provide that information to educators to improve their practice; and identify persistent achievement and graduation rate gaps within the State that need to be closed. An SEA must also sign an assurance indicating it understands that it will either request and be approved for the full ESEA flexibility by the time it would typically make AYP determinations for the 2013–2014 school year (based on assessments administered in the 2012–2013 school year), or comply with all the requirements of current law, including holding its schools and districts accountable for reaching its current AMO trajectory towards 100 percent proficiency by 2013–2014.

The following describes the evidence that an SEA must provide in order to qualify for a waiver.

1) Adopt college- and career-ready standards

- Description: Adopt college- and career-ready (CCR) standards in at least reading/language arts and mathematics. CCR standards are content standards for kindergarten through 12th grade that build towards college and career readiness by the time of high school graduation. A State's college- and career-ready standards must be either (1) common to a significant number of States; or (2) approved by a State network of institutions of higher education (IHEs), which must certify that students who meet the standards will not need remedial coursework at the postsecondary level.
- Criteria: An SEA must submit to the Department for review and approval evidence that it has formally adopted college- and career-ready standards in at least reading/language arts and mathematics.

If an SEA has adopted standards that are common to a significant number of States, the SEA must submit evidence that the State has formally adopted the standards consistent with the State's standards adoption process, such as Board minutes, legislation, or the signature of the State superintendent or Chief State School Officer.

If an SEA has adopted college- and career-ready standards that have been approved and certified by a State network of IHEs, the SEA must submit:

- o Evidence that the State has formally adopted the standards consistent with the State's standards adoption process, such as Board minutes, legislation, or the signature of the State superintendent or Chief State School Officer; and
- o A copy of the memorandum of understanding or letter from a State network of IHEs certifying that students who meet the State's standards will not need remedial coursework at the postsecondary level.

2) Provide student growth data to teachers

- Description: Provide student growth data on current students and students taught in the previous year to, at a minimum, teachers of reading/language arts and mathematics in grades in which the State administers assessments in those subjects in a manner that is timely and informs instructional programs (same as State Fiscal Stabilization Fund (SFSF) Indicator (b)(2)).
- Criteria: An SEA must submit to the Department an assurance that it will provide student growth data on current students and students taught in the previous year to, at a minimum, teachers of reading/language arts and mathematics in grades in which the State administers assessments in those subjects in a manner that is timely and informs instructional programs, consistent with the timelines and definitions required under SFSF Indicator (b)(2).

3) Identify achievement and graduation rate gaps

- Description: Report publicly on achievement gaps and graduation gaps between the “all students” group and each subgroup of students, as required by ESEA section 1111(b)(2)(C)(v)(II), and how those gaps have changed over time.
- Criteria: An SEA must submit to the Department for review and approval, along with its waiver request, information on achievement and graduation rate gaps in the State based on the most recent three years of data. The data must be presented in a format that is easily understandable to the general public. The Department is providing a template that the SEA can use for this purpose. This information must include the following, except in the case in which the number of students in a subgroup would reveal personally identifiable information about an individual student:
 - o Percentage of students statewide who are proficient in reading/language arts and mathematics based on State-administered assessments in those subjects and the statewide graduation rate for the “all students” group and for each subgroup;
 - o Achievement gaps based on percent proficient statewide between the “all students” group and each subgroup in reading/language arts and mathematics; and
 - o Graduation rate gaps between the “all students” group and each subgroup.

Department Review and Approval Procedure

The Department will notify an SEA if its presentation of achievement gap data is approved and if the SEA meets the other criteria set forth above. At that time, the SEA must publicly post the achievement and graduation rate gap data in a prominent and easily accessible location on the SEA’s website and provide the Department with the specific URL to access the information. Once the Department has confirmed the information is publically available, it will officially approve the SEA’s request.

